

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE-OPELOUSAS DIVISION**

LAWRENCE REBARDI, III.

CIVIL ACTION NO. 03-1776

VERSUS

JUDGE MELANÇON

CENTRAL BOAT RENTALS, INC.

MAGISTRATE JUDGE HILL

**ORDER**

Before the Court is plaintiff's Motion to Strike [Rec. Doc. 102]. Plaintiff moves the Court to strike defendant's Objections to Report and Recommendations [Rec. Doc. 101] as untimely. Magistrate Judge Hill's Report and Recommendations [Rec. Doc. 99] were signed on September 18, 2007 and filed into the record on September 19, 2007.

Title 28, Section 636(b)(1) of the United States Code provides that "[w]ithin ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court." 28 U.S.C. §636(b)(1). Rule 6 of the Federal Rules of Civil Procedure states that "[w]hen the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation [of time]." F.R.C.P. 6(a). Rule 6 further provides that "[w]henver a party must or may act within a prescribed period after service and service is made under Rule 5(b)(2)(B), (C), or (D), 3 days are added after the prescribed period would

otherwise expire.” F.R.C.P. 6(e). Rule 5(b)(2)(D) provides for service made by electronic means. F.R.C.P. 5(b)(2)(D).

The Report and Recommendations that issued were signed by the Magistrate Judge on September 18, 2007 and filed on September 19, 2007. The applicable date to begin the calculation is September 19, 2007. Because the “day of the act, event or default from which the designated period of time begins to run shall not be included” in the computation, the time period would begin to toll on September 20, 2007. The 10 day statutory period, excluding weekends and holidays, thus lapsed on October 3, 2007. However, under Rule 6, the parties were given an additional 3 days to allow for service. “Intermediate Saturdays, Sundays, and legal holidays are included in counting these added three days. If the third day is a Saturday, Sunday, or legal holiday, the last day to act is the next day that is not a Saturday, Sunday, or legal holiday.” Comments to FRCP 6.

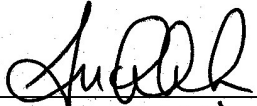
Even a cursory review by Mover of the Federal Rules of Civil Procedure should have put Mover on notice that a motion such as the one he filed has no basis in fact or in law. It is,

ORDERED that the plaintiff’s Motion to Strike [Rec. Doc. 102] is DENIED.

Mover requested that in the event that the Court denied his motion that he be granted ten (10) days from the date of the Court’s denial to file a response to

defendant's objections to the Report and Recommendations [Rec. Doc. 101]. Although there is no statutory or jurisprudential basis to grant Mover the relief he seeks, the Court will nonetheless grant the plaintiff until Monday, October 15, 2007, at 12 Noon Central Standard Time, to file a response to defendant's Objections to the Magistrate Judge's Report & Recommendations. In the event Mover fails to *timely* comply with this order, any late filed response *will not be considered*.

**THUS DONE AND SIGNED** this 11<sup>th</sup> day of October, 2007 at Lafayette, Louisiana.

  
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Tucker L. Melançon  
UNITED STATES DISTRICT JUDGE